

Regular Session, 2011

HOUSE BILL NO. 216

BY REPRESENTATIVE ROY AND SENATOR PERRY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL/PROCEDURE: Amends provisions of law regarding probable cause determinations

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 230.2(B), relative to probable  
3 cause determinations; to provide with respect to release of certain defendants in the  
4 absence of a probable cause hearing; to provide for the release of defendants in  
5 certain circumstances; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 230.2(B) is hereby amended and  
8 reenacted to read as follows:

9 Art. 230.2. Probable cause determinations; persons arrested without a warrant and  
10 continued in custody; bail

11 \* \* \*

12 B.(1) If a probable cause determination is not timely made in accordance  
13 with the provisions of Paragraph A of this Article, ~~the arrested person shall be~~  
14 ~~released on his own recognizance.~~ the court, on the request of the state or the  
15 defendant, shall immediately order the release of the defendant on an unsecured  
16 personal surety bond as defined in Article 317 unless a magistrate has made a  
17 probable cause determination prior to the request.

18 (2) Nothing in this Paragraph shall prohibit a court, on its own motion, or on  
19 motion of the state or defendant, from increasing or reducing the amount of bail, or  
20 requiring new or additional security, at any stage of the proceedings against the

1        defendant, upon a subsequent finding of probable cause for the defendant's initial  
2        warrantless arrest, or as provided in Article 342, nor shall anything in this Paragraph  
3        preclude the defendant's rearrest and resetting of bond for the same offense or  
4        offenses upon the issuance of an arrest warrant based upon a finding of probable  
5        cause by a magistrate.

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### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Roy

HB No. 216

**Abstract:** Provides procedures for the setting of bail for defendants who are arrested without a warrant and are held without a probable cause hearing.

Present law provides that persons continued or remaining in custody pursuant to an arrest made without a warrant shall be entitled to a determination of probable cause within 48 hours of arrest.

Proposed law retains present law.

Present law provides that the failure to conduct the hearing results in release of the defendant on his own recognizance.

Proposed law changes present law to provide that if the 48-hour hearing is not conducted, the court, on the request of the state or the defendant, shall immediately order the release of the defendant on an unsecured personal surety bond unless a magistrate has made a probable cause determination prior to the request.

Proposed law shall not preclude the setting of bail by the court or preclude the defendant's rearrest and resetting of bond for the same offense or offenses upon the issuance of an arrest warrant based upon a finding of probable cause by a magistrate.

(Amends C.Cr.P. Art. 230.2(B))

### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Removed proposed law provisions requiring a contradictory hearing to set bail.
2. Added provisions providing for the release of the defendant on an unsecured personal surety bond.